

CLEAN WATER COUNCIL
Meeting Highlights
April 13, 2004

Location:

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike, Lawrenceville, NJ

Attendees:

Pat Matarazzo, Dan VanAbs, Helen Heinrich, Pat Pittore, Diane Alexander, Carmen Valentin, Russ Furnari, Amy Goldsmith, Ferdows Ali, Tony McCracken, Barbara Rich, Danielle Donkersloot, Doug Johnstone and Ursula Montis.

MTBE SPEAKER - Gloria Post, from DEP, Division of Science, Research and Technology and Chairperson for DEP's MTBE Task Force.

- New Jersey has been aware of the presence of MTBE in groundwater since the mid-1980's, when it was detected in drinking water surveys.
- New Jersey was among the first states to develop a drinking water standard for MTBE.
- High concentrations of MTBE in ground or surface water are usually associated with an obvious source of contamination such as leaking underground storage tanks or the use of gasoline powered watercraft.
- Dr. Post explained the health basis of the New Jersey MCL of 70 ug/L. Several other states have standards or guidance based on the EPA Drinking Water Advisory, which is 20-40 ug/L, based on taste and odor.
- NJ cannot issue primary, enforceable standards based on secondary (taste and odor) effects. The NJ standard is protective of human health for chronic exposure.
- There is ample data on the occurrence of MTBE in public drinking water, but more data is needed for its occurrence in domestic private wells.
- Personal watercraft (jet skis) and many other motorized watercraft run on an oil/gasoline mixture. As much as 30% of this fuel is discharged directly into the water body.
- Through Outreach and Education publications, the public is being versed on the handling of gasoline use with cars and boats.
- The use of gasoline powered boats and crafts on lakes is being reevaluated.
- Any replacement substitute will have to be evaluated for environmental and human health consequences.
- The DEP MTBE report can be downloaded from the website - www.state.nj.us/dep/dsr

Lou Neely - This report came out three years ago. Since then there have been many reported cases of groundwater pollution, as well as lawsuits filed and nothing has been done to change the standards. The Council has also recommended to the Commissioner that MTBE be looked at. There has been media coverage across the country, yet DEP has taken no proactive measures towards this issue. What is the direction of the DEP and what is the response to the Council on this issue? Why are we waiting?

Gloria - I can't respond to that. I am a toxicologist. My job is to do the risk assessment. We are waiting to see what EPA will be doing as far as a national standard before we make any changes. I can bring these questions back to the institution's attention with the possibility of developing some guidance or a secondary standard based on cases noted.

Amy Goldsmith - You are a toxicologist. NJ law requires the state to have a higher standard for carcinogens. Using the standard of one in a million in NJ for carcinogens, and given the body of evidence that exists, I think it prudent that DEP and NJ take its own look. The EPA is not moving fast enough on this issue. It is imperative for DEP and NJ Water Quality to be creative and move to bring this back to the table.

Lou Neely - If at the end of the month we do not get a response from the letter Council sent to the Commissioner, we should follow up and check why we have not.

Dan Van Abs - asked Gloria, that in terms of policy making on this issue, who would be the best person to contact for information on the Department's views on MTBE and it's overall regulations?

Gloria - Probably Chris Salmi in the Air group.

Lou Neely - When we met with CAC, they said it was not on their agenda and did not consider it an important issue at that time.

Dan Van Abs - I think it should be Jeanne Herb's office we should contact. She is the one who coordinates among the Assistant Commissioners.

Barbara Rich - When I was at a meeting in Camden Co., I asked the Commissioner about MTBE and he said that Air came first.

Gloria - Keep in mind that NJ was the first state to address MTBE.

Pat Pittore - As a toxicologist, do you agree with the MCL of 70 ug/L for MTBE?

Gloria - As a toxicologist I feel that 70 is a health protective number as far as cancer or non-cancer. I don't think there are that many people drinking water above the standard in NJ. We cannot go below that 70 standard. It would not be legally enforceable.

Pat M. - I attended a Hearing (Highlands) at the Morris Co. Aboritum last night. There was at least 500 people there. I was most impressed with the farmers' presentations. They were very knowledgeable of

the stormwater rules, C1 Rules and SWQ Standards. I testified that they should be very careful on implementation and understanding the unattended consequences connecting all of these rules. A whole lot of different interpretations and questions came out at this Hearing. Another idea raised was the formation of a Highlands Council to consist of 15 members all appointed by the Governor, with DEP and the Governor having veto power over the committee.

Tony McCracken - Commissioner of DEP can override public health, safety and welfare.

Pat M. - Another question asked was where the 3% impervious surface came from.

Dan - It's in the CAFRA rules. Section 17 under disturbance of lands. The Bill number is S1.

Barbara Rich - Senator Marten talked about this Bill and said it was a work in progress. He has already submitted amendments to take the centers that might be in the core out of the core, so that they can continue to develop as they are supposed to.

Dan - Senator Smith has also submitted amendments for this Bill. I think they are trying to craft this Bill so that it is strong enough to get a fair amount of support.

Pat - The panel was visibly shaken. The farmers were well prepared.

Tony - Have they come out with the Core Area Map yet?

Pat - The Core Area Map comes out on Thursday. There are 90 municipalities involved with this. I made a suggestion that the Highlands Council should be a home appointed council and there should be a technical component to balance it. Political appointees will not have the background to deal with some of the technical issues. I spoke as the Rockaway Twp. Environmentalist. I think that the premise for this regionalization is a good one. I think that it will actually address watershed in the true sense. I told them if they needed technical support at any given time, that CWC might be able to assist them, since we have a good technical team.

Russ -It seems to me that if you form the Highlands Council, legislation would prevent the Council from doing what they have to do. There should be flexibility that allows areas to be identified where there would be criteria for impervious surfaces. And the percentage or amount should be left up to the Council to establish.

Lou - What was the feeling conveyed by the 90 municipalities?

Pat - They are afraid of losing home rule. They are afraid of losing control of their land management, their planning and their zoning.

Dan - The Map has been sent to all the municipalities. There is no consensus within these municipalities. You are getting a huge variety of municipal opinions because of political feedback.

Pat - Ray Zabihach and I are in the middle of all this.

Lou - Let's make that the first Agenda item at our next meeting that we ask Ray Zabihach to summarize what's happening. By that time the Map will be out and we will have had a chance to read the Bill.

Tony - I'm just afraid that any good efforts that come out of this will be overturned by court challenge.

Pat - In my testimony I dealt with one of the premises of this process which was the protection of the drinking water source. I pointed out that they should be dealing with the State Water Supply Master Plan redo that Dan and I are involved with. Ninety-six gallons of water a day is actually transported out of the Highlands and is depleted. It is not brought back into the system. Some of those allocations in the passing flows need to be reevaluated.

Tony - What about our regional review, our wastewater masterplan?

Pat - I recommended that they look at the characterization reports from Watershed Management Areas 3, 4 & 6. A lot of the things that they need to do have already been done and are in these reports.

Dan - The last version of the Map that I saw, was logical. It made a lot of sense to me, knowing the underlying data. There is almost no place on it that I have a significant question on whether it is valid or not. It follows what it needs to follow.

Public Hearing Discussion:

Pat - I have put together a list of things that I think we should include in our scenario for our fictitious town. Dan has put together key questions to ask, suggestions for a potential cast, and also a potential format. The list is very detailed because you want to be able to face whatever stormwater question that arises, and have an answer for it.

Dan - The one thing I might add is to have a County DPW facility located within the municipality, because then the county stormwater permit comes into play.

Russ - you might want to have one of the schools fixed at 1000 students or more so it would require them to have a separate permit.

Pat - We can always throw in a college or university campus.

Dan - suggested 30% impervious surface rather than 50% to make it more of a suburban town.

Lou - How big should we make this town?

Dan - Probably around 25 square miles would be good for 25,000 people.

Helen - Do you want to add the number of people per square miles?

Dan - One of the ideas I thought about was to find a municipality that matches with this fictitious town. You could use GIS mapping and strip the actual names off the map and use our own. Or you can go to another state.

Danielle Donkersloot - You might want to add a dump or compost area to the town and think about garden centers.

Pat - The participants are going to be the hardest issue to deal with. We will really have to work on getting names for the different categories of representation that we want at this round table. We will have to put out requests to these people.

Tony - What kind of format will we have?

Pat - Harvard Law did something like this and they had a panel with all kinds of experts in each field. They walked through a case from beginning to end. We would walk through a stormwater permitting process from start to finish with questions prompted by a moderator, that would bring answers to all the problems that might come up during that process. You could have a panel representing the different entities of the town, such as the Mayor, Public Works Director, the DEP official, the Agriculture Dept, the Farmers Bureau, the Road Dept, and the town Planner. All the people that would make this stormwater process work.

Tony - Are you going to have a moderator posing questions or will they pose questions to the moderator?

Pat - It will probably be both ways. It will be a loose script. After all the questions have been asked and answered, the implementation process should be evident after walking through the process.

Tony - Do we have a date?

Ursula - October 14th was the date we came up with.

Dan - I suspect that there may be too many different interests. You may want to simplify it a bit. We should focus on the major issues. Focus on those entities or interests who have an operational or direct role in this. I would take out legislative and legal because the municipal engineer has a good idea of how to handle that. With regard to state agencies, I would suggest DEP Transportation but in terms of stormwater management, that is not an agricultural function, nor is it a DCA function. You might want to lump environmental groups and citizens groups together. The others on the list seem to fit. I have some names I would like to suggest for our potential cast. Peter Messina, from Bernards Twp. is their engineer and their planner. For County Engineering and Public Works someone like Frank Scarantino, from Ocean Co. He was the municipal engineer for Hillsborough, and is now the assistant county engineer for Ocean Co., so would bring a lot of experience on both sides to the table. In terms of county planning and because we want to get the result of the stormwater utility study included, I suggest Ray Zabihach. I also suggest George Hawkins from the environmental community, who has just completed a major paper on the stormwater permitting system that the League of Municipalities has adopted as a publication and are putting up on their web.

Pat - Just as an FYI, George is being appointed to this Council and is going through the process right now.

Dan - As far as the municipal elected official, it would be nice if we reached to the southwestern part of the state. I will e-mail my Public Hearing ideas to Ursula to send out to all the Council members.

Tony - Maybe then, we can all look at these ideas and categories and come up with some more names and suggestions for the Hearing.

Pat - I agree with everything so far, except for eliminating Legal. I deal with the Legal component on a daily basis and on a municipal level, the first place the Mayors run to, is the Legal Dept.

Dan - The State Soil Conservation Committee does have responsibilities on regulating stormwater because of the Soil Conservation District. The Dept. of Agriculture happens to be the home for that but it is not really Agriculture. So, you might want to consider asking the Soil Conservation Committee to join us.

Pat - Go back and think on names and what we should include for the town and we will discuss this at our next meeting.

Barbara Rich - Has anyone seen the checklist that DEP gives for engineers to use to design the stormwater plan? I had my first exposure to it and it seems that the types of questions that are asked are directed at commercial and industrial rather than residential.

Pat - I just got the book with the regulatory permit fees and it looks as if everybody's discharge permit fees have doubled from last year.

Lou - In the last minutes there was mention of an EPA Water Trading Grant. What was that about?

Dan - That had to do with Pollutant Trading. There is a grant application in to EPA to fund a pilot study in NJ for Water Pollutant Trading. Chris Obrupta is the author and it has gone to the National level.

General Information

Pat - TMDL for the Passaic River is divided into two parts.

Diane Alexander - The first is the initial DEP protocol quick study addressing the phosphorous nutrient. Then there is the watershed site specific TMDL portion for addressing the appropriate regulation of phosphorous. The first portion is being developed and has gone through DEP and is making its way through the process.

Pat - There is going to be a presentation to the participants on results of one of the first phases of the TMDL on the Passaic River this Thursday. The TMDL process that has been in the works since 1993 is finally coming out.

Barbara - Has anybody heard of this VX Agent being transported into this state and its impact on water? Should our Council be involved with this issue?

Amy - DEP joined with the Gov. of Delaware in opposition to this issue. A joint letter written by the two, is concerned that the agent will end up in the Delaware River, which is a drinking supply, and has concerns for the impact to aquatic environment. The primary issue that they are raising has to do with water, so it is relevant to this Council if they choose to get involved.

Dan - The Commissioner has already stated in that letter that he is against this issue. I don't know what else we could say about it.

Pat - Myself and three others are working on writing legislation on labeling of sludge fertilizer, both bagged and bulk. We want to come up with a label that will tell the farmers what can be used effectively for fodder.

Helen - Are you familiar with the Rutgers study on that?

Pat - Yes, Rutgers is involved.

Ursula - There was a correction to the minutes brought up by Dan. It is at the top of page nine. The name Tony Cassino should be replaced by Peter Messina.

Dan - Just to let you know, Larry Baier will be staying on as Director of Division of Watershed Management.

Pat - NJWEA conference is on May 3-May 7 at the Tropicana in Atlantic City. This conference will be devoted to the watershed stormwater management process.

Meeting adjourned.

